

Terms of Reference

The Terms of Reference for the Hillhurst/Sunnyside Community Amenity Fund is included below. It was approved by Council in 2016.

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Background

The Hillhurst/Sunnyside Area Redevelopment Plan (ARP) (approved 1988 January 18, Bylaw 19P87) was amended 2012 November 05, by Bylaw 27P2012 to allow for the earning of bonus density through cash contributions to a community enhancement fund, the Hillhurst/Sunnyside Park Improvement Fund (HSPIF). The HSPIF was created in conjunction with other density bonusing policies outlined in the Hillhurst/Sunnyside ARP policies for Transit Oriented Development (TOD) and implemented through the Direct Control Bylaws in place within the TOD Study Area indicated in Figure 1 – Area of Applicability. A development desiring to utilise the density bonus provisions of the Direct Control Bylaws was eligible to make a contribution to the HSPIF, which was calculated based on the square footage of the development. The collected monies were intended to be used to facilitate and implement physical improvements to the triangular open spaces identified in Figure 2 – Area of Implementation.

Status

Since 2012 November, The City began accepting contributions to the HSPIF as part of the density bonusing system for development permit applications within the TOD area of the Hillhurst/Sunnyside ARP.

The previous HSPIF was established to implement physical improvements to the Triangle Parks (Bow to Bluff project); however, in 2014 November the ENMAX Legacy Fund allocated money to complete this Park Improvement project. As such, an amendment to the Hillhurst/Sunnyside ARP was required to update the policy to align with the models in the Beltline ARP and the Brentwood Station ARP. The money collected by the HSPIF since 2012 (\$313, 290.75) will remain in a Community Planning Capital Deposit account and the account will be renamed to the Hillhurst/Sunnyside Community Amenity Fund (HSCAF) to reflect the policy amendment approved by Council on 2016 April 11.

Purpose

The purpose of this document is to define the Terms of Reference of the new HSCAF, which will replace the previous HSPIF.

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Area of Applicability

The regulations for contribution to the HSCAF apply in the TOD Study Area as defined in the Hillhurst/Sunnyside ARP (see Figure 1).

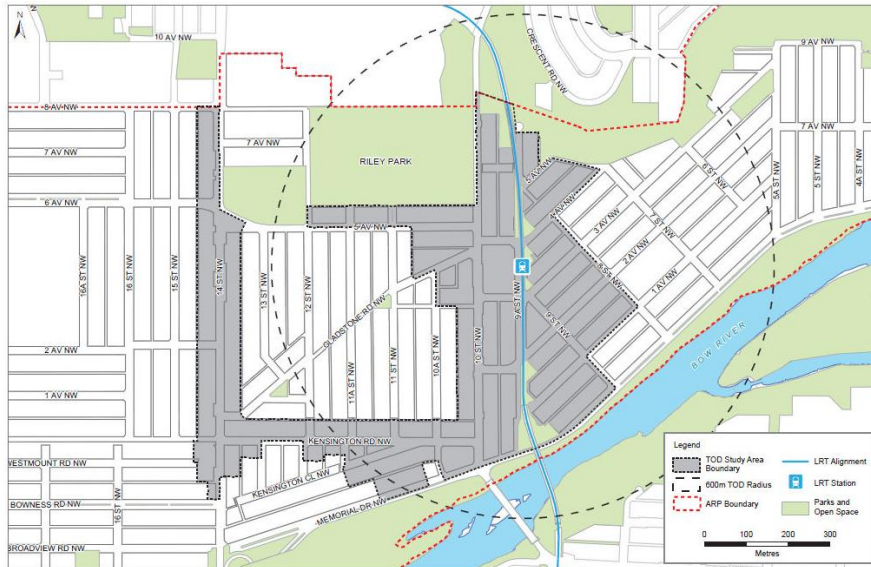


Figure 1: Area of Applicability

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Area of Implementation

The regulations for expenditure of HSCAF funds to implement projects apply within the Hillhurst/Sunnyside Community as defined in the Hillhurst/Sunnyside ARP (see Figure 2).



Figure 2: Area of Implementation

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Hillhurst/Sunnyside Community Fund

The purpose of the HSCAF is to implement improvement projects and provide public amenities that benefit the community within the Hillhurst/Sunnyside ARP boundary. As development intensity within Hillhurst/Sunnyside increases, increased pressures are placed on the public realm and heritage properties; and heritage character of the area. Elements such as public parks, open spaces, and sidewalks are impacted by the additional residents and users of the area. In order to support both existing and future residents with a quality public environment (inclusive of additional or improved parks, open space, enhanced existing spaces and facilities) funding will be needed for these elements. Upgrading the public environment will ensure vibrancy, promote local initiatives and guarantee that Hillhurst/Sunnyside is a more attractive residential and business location now, as well as in the future. Additionally, incentives and measures are required to protect the heritage character of the community.

The City of Calgary has an incentive density system in Hillhurst/Sunnyside that applies to the TOD Study Area, as outlined in the Hillhurst/Sunnyside ARP. This system provides for the approval of additional development density in exchange for community amenities or public benefits. The intent of the policy is to achieve higher residential or commercial development in locations where additional residential or commercial floor space is desirable, while generating public benefits, amenities or building features that achieve the objectives set out in the Municipal Development Plan (MDP) and local policies.

The HSCAF can be used to implement features and physical improvements within the ARP Study Area Boundary identified in Figure 2 consistent with any designs approved by The City, as defined in Section 2.6.1 Public Realm Improvement Projects of this Terms of Reference.

Type of Fund

The HSCAF is an interest-bearing capital deposit fund administered by the Community Planning (CP) Business Unit of the City of Calgary. The regulations of The City of Calgary's capital financing program apply to the fund.

Acceptance of These Terms

By applying for, and accepting, a development permit using the density bonus instrument through a contribution to the HSCAF, the applicant accepts these Terms of Reference.

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Administrative Committee

The HSCAF's Administrative Committee (the Administrative Committee) must at all times be fully aware of the development priorities and policies as developed by The City's business units and as directed by Council. Intimate knowledge of the planning context of the Hillhurst/Sunnyside Community from the perspective of the development industry and community association is equally important. Achieving a high level of interdisciplinary integration is furthermore key to ensuring HSCAF monies are allocated most effectively.

In light of this the HSCAF shall be managed by the Administrative Committee that will be chaired by the Manager of Community Planning – North. The Administrative Committee shall be composed of a representative from each of the following city business units and key stakeholder groups:

Stakeholders	Members
Chair: Manager of Community Planning – North	1
Community Planning – North, City of Calgary	1
Calgary Growth Strategies (CGS) -Urban Design & Heritage, City of Calgary	1
Transportation Planning, City of Calgary	1
Parks Planning, City of Calgary	1
Hillhurst/Sunnyside Community Association (HSCA)	1
Kensington Business Revitalization Zone (BRZ)	1
Representative of the local contributing developers	1
Ward Councillor	1
Total Members:	9

The composition of the Administrative Committee is intended to ensure that the Administrative Committee is fully aware of any proposed projects in City business planning units that have the most direct bearing on the public realm, while also incorporating knowledge of the priorities of the community and industry.

Appointment to the Administrative Committee

The four City representatives (Community Planning, CGS- Urban Design & Heritage, Transportation Planning, and Parks) shall be appointed by the Director(s) of their respective business units. The two stakeholder representatives (HSCA & BRZ) shall be

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appointed by their respective organisations. It is at the respective organisations' discretion to determine the appropriate method for selecting their representatives.

Local contributing developers are those landowners and/or developers who have contributed monies to the existing HSPIF or new HSCAF as part of a Development Permit Approval since November 2012. It is at the contributing developers' discretion to determine the appropriate method for selecting their representatives.

Term of Administrative Committee Members

The term of Chair of the Administrative Committee shall be for so long as the person holds the position of the Manager, CP – North. The terms of the Administrative Committee members representing City business units shall be determined by the respective business units. The term of the Administrative Committee members representing the public stakeholders shall be determined by their respective organisations. The local contributing developers' term shall be no more than three years.

Administrative Committee Responsibilities

The Administrative Committee is responsible for:

- Consultation with business units and community stakeholders;
- Reviewing applications for funding;
- Recommending projects in excess of \$200,000.00 for funding through the HSCAF for Council's approval;
- Funding decisions up to an amount of \$200,000.00 total per project;
- Financial oversight of the HSCAF;
- Monitoring of projects where funds from the HSCAF are used; and
- Reporting to Council on project in excess of \$200,000.00.

Administrative Committee Meetings

The Administrative Committee must meet at least once per year, or as deemed necessary by the members, to discuss ongoing and planned developments, relevant issues and possible public realm improvement projects and to examine potential project opportunities. In the event that a member cannot attend a meeting in person, he/she may appoint a delegate to attend in his/her stead. Written minutes of the meetings must be kept.

The Chair should strive to set the meeting dates and venues such that all members can attend. Meetings should be announced 14 business days in advance. To the extent not

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covered in this Terms of Reference, the Administrative Committee shall determine its meeting protocols and method of decision making.

Project Decisions and Recommendations to City Council

The Administrative Committee must decide by majority vote which projects it shall approve for funding or recommend to Council for funding approval. In the event of a tie, the proposal must be considered defeated. Decisions may only be made if a simple majority of members is present.

Dialogue with Business Units

The Administrative Committee must be well aware of various business units' planning activities, such as those of Transportation, Roads, Transit, etc. in order to ensure public realm development activities occur in an integrated, comprehensive and mutually supportive manner. Dialogue with the other business units will be managed by the Planning & Development administrative staff as required. Dialogue may occur by inviting representatives of business units or other stakeholders to the Administrative Committee meetings.

Therefore, the administrative staff should consult with other business units as required on ongoing and planned projects and potential unit priorities and constraints. The business units' recommendations should be taken into consideration by the Administrative Committee when it compiles the list of Strategic Projects for the HSCAF and determines fund allocations. In so doing, the Committee must ensure that the HSCAF is not used to substitute City budgets where these can and should be used to finance a project.

Administrative Staff

The daily operation of the HSCAF and support to the Administrative Committee will be undertaken by staff of the Community Planning business unit.

The Administrative staff are responsible for:

- Supporting the Administrative Committee;
- Liaising with business units and key stakeholder groups;
- Allocation of funds to receiving projects;
- Financial tracking of HSCAF monies;
- Monitoring of projects and development;
- Reporting to the Administrative Committee; and
- Organisational matters of committee meetings, e.g. minutes.

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Eligible Projects

The HSCAF is to be used for public realm improvement projects on public lands or within public rights-of-way within the Hillhurst/Sunnyside Community, identified as the Study Area (ARP) Boundary in Figure 2 – Area of Implementation related to public realm improvements, including but not limited to:

- Heritage Conservation and historic resource retention;
- Streetscape design and improvements within City rights-of-way;
- Implementation of urban design strategies and public art on public land;
- Community support facilities, including Community Association facilities;
- Transit enhancements; and
- Community planning studies and enhancement projects.

Projects to be funded in whole or in part with HSCAF monies should, where required, be included within the approved City of Calgary Capital Budget. Where possible, projects will be funded through multiple sources, including mill rate support.

Application Requirements

To be considered for funding through the HSCAF a letter describing the proposed project must be submitted to the Administrative Committee for review. This applies both to projects that are initiated by City business units as well as projects proposed by external, community stakeholders. It is at the discretion of the Administrative Committee to determine the information required for the application; however, as a guideline, letters should include the following:

- A description of the project;
- An explanation of the project's benefit to the public realm and alignment with relevant City policies and plans;
- A description of the necessary works required, i.e. text, maps, sketches, drawings, schedules; and
- A work schedule/project overview and cost estimate/quote verifying that the proposed project budget is feasible.

The Administrative Committee may also invite applicants to attend an Administrative Committee meeting to discuss the proposal or provide a presentation of its contents, and request additional information required to make a decision.

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Application Timelines

Letters requesting HSCAF expenditures should be submitted to the administrative staff at least two weeks (14 days) in advance of a scheduled Committee meeting. The Committee will strive to complete its assessment and make its decision known to the applicant in a timely manner.

Allocation Principles

As the purpose of the HSCAF is to advance public realm improvements as development densities increase, the objective should be to support implementation in such a manner that the positive effects of the funded projects are achieved prior to, or upon completion of, the higher densities. To help mitigate loss of heritage properties and character in the area, priority allocation should be considered for Heritage Conservation. Where possible, the Administrative Committee should strive to allocate funds in proximity to those developments that have contributed to the fund. However, contributors may not place terms on their contributions.

Allocation Approval Authority

To facilitate operation of the fund, the Administrative Committee shall have the authority to decide upon projects and allocate funds to a total amount of \$200,000.00 per individual expenditure without approval by Council. This supports the timely allocation of funds and the implementation of the allocation principles, as illustrated above.

All projects and allocations to receiving projects that exceed \$200,000.00 must be approved by Council and must be identified in the relevant City business unit's Capital Budget, if Capital Funds are to be allocated to a project.

Payment Agreement

The development permit grants specific development rights in the form of additional floor area ratio above the base density when density bonusing is applied. The calculated financial contribution shall be paid in full prior to release of the development permit. Contributions will not be refunded to the contributor.

Contribution Calculation

Contributions to the HSCAF are calculated during the development permit approval process. The method of calculation is established in the Hillhurst/Sunnyside ARP:

"Part II, Section 3.1.5.4.i

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The contribution rate per square metre of floor area above the base density shall be that rate approved by Council and in effect at the time of development approval."

Deposit Fund

Contributions to the HSCAF must be deposited into a liability account of the Community Planning Business Unit of the City of Calgary. Unless stated otherwise in the following, The City's regulations and guidelines pertaining to interest-bearing funds apply to the HSCAF.

Interest

Accrued interest will be allocated to the HSCAF.

Accounting

Accounting of the funds occurs internally through the Administrative staff, who tracks the liabilities against the balance in the deposit fund. Staff will keep a schedule for the commitments, received funds and non-allocated monies. When the decision has been made to allocate funds to a specific project, the administrative staff and the manager of the receiving project will establish a payment schedule. The administrative staff will place liabilities against the required funds as per the payment schedule. This ensures that the monies are properly reserved for the project. It may also be required in order for the receiving project to meet potential grant eligibility requirements.

Payment of Funds to Receiving Projects

Upon authorization from the Administrative Committee Chair, allocated monies from the deposit fund will be transferred through journal to the receiving project. This can entail either the entire funding amount or incremental amounts until the full allocation has been achieved. Payments should be made upon completion of the agreed upon works or project stages.

Minimum Balance

The HSCAF is to be used to improve the public realm in conjunction with increased densities. As such, funds should be allocated to projects as deemed appropriate by Council and the Administrative Committee. Therefore there is no minimum balance requirement for the HSCAF fund.

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Refund of Contributions

The contribution to the HSCAF is a condition of the development permit and is non-refundable. It is at the contributor's discretion to use the HSCAF rather than utilising other bonusing options, or to remain within the base density allowed in the Land Use Bylaw. Therefore the contribution to the HSCAF is a voluntary decision on the part of the developer for the purpose of receiving floor area above the base density.

Developers who wish to avail themselves of a density bonus through a contribution to the Hillhurst/Sunnyside Community Amenity Fund pursuant to Direct Control District XXXDXXXX are asked to sign the following acknowledgement:

That the Developer acknowledges that the contribution to the Hillhurst/Sunnyside Community Amenity Fund is being made on an entirely voluntary basis and is non-refundable and is not to be credited against the payment of development charges or other fees and charges that The City may impose in respect of the development site. The City shall not be liable to account to the Developer for any payments made by the Developer to the HSCAF. Upon payment being made by the Developer, the City shall retain the whole of the sum of \$ _____ as the consideration for the density bonus approved within DP _____.

Cancellation and Delay of Funded Projects

In the event that a HSCAF-funded project is cancelled, the Administrative Committee, with the Chair's approval, will remove the liability placed against the HSCAF and make the funds available for other projects.

If a HSCAF-funded project is substantially delayed, i.e. by more than two years, or put on hold indefinitely, the Administrative Staff must consult with the project manager to determine how long the liability against the allocated funds will be maintained.

Over time, The City's strategic priorities may change. Therefore at its discretion Council may rescind its approval for previously approved Strategic Projects if a payment schedule has not been established with the receiving project.

Regular Monitoring Report

The Administrative Committee will prepare an annual report to Council on the status of the HSCAF, list of Strategic Projects, implemented projects, allocated funds and any changes proposed to the contribution calculation method on a regular basis. The report will be prepared for the prior calendar year, and will be presented to Council by no later

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than May of the year subsequent to the year for which the report is prepared. The report may be contained within other regular or annual reports. An overview of the status and activities of the HSCAF should also be included in the Hillhurst/Sunnyside Community Monitoring Report.

Project Accountability

Any member of the Administrative Committee may request, through the Administrative Committee chair, that a project account for its expenditures. On receipt of such a request, the Administrative Committee chair must schedule a meeting of the Committee, within 45 days, at which the project accounting would be provided. If the expenditure does not comply with the project contents and terms agreed upon, the Administrative Committee may refuse payment of the allocated funds.

Lifespan of the HSCAF

The public realm must be maintained, modified and enhanced in step with the community as it grows and changes. The HSCAF and these Terms of Reference remain in effect until such time as Council decides their termination.

Review and Amendments

The successfulness of the processes defined in these terms should be monitored for the first three years of their implementation. After three years, the terms should be reviewed, confirmed or amended as required, and the outcome of the review included in the annual report to Council.

Amendments to the Terms of Reference must be reviewed by the Administrative Committee and must be approved by Council to become effective.

Effective Date

These Terms of Reference are effective on the date that they are adopted by Council.